

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
BUFFETS HOLDINGS, INC.,)	Case No. 08-10141 (MFW)
a Delaware Corporation, et al.)	(Jointly Administered)
Debtors.)	
)	

**APPELLANTS' DESIGNATION OF ITEMS TO BE INCLUDED IN RECORD
AND STATEMENT OF ISSUES TO BE PRESENTED**

Pursuant to Federal Rule of Bankruptcy Procedure 8006, Appellants Delmarva Power & Light Company, Atlantic City Electric Company, Potomac Electric Power Company, Florida Power and Light Company, Gexa Energy and Sacramento Municipal Utility District (hereinafter collectively, the “Objecting Utilities”) submit the following with respect to their appeal of the Final Order Pursuant To Section 366 Of The Bankruptcy Code (I) Prohibiting Utility Companies From Altering, Refusing, Or Discontinuing Utility Services, (II) Deeming Utilities Companies Adequately Assured Of Future Performance, And (III) Establishing Procedures For Determining Adequate Assurance Of Payment of the Honorable Mary F. Walrath, entered on February 28, 2008 (Docket No. 414).

A. Items To Be Included In The Record:

<u>Docket</u> <u>No.</u>	<u>Item</u>
6	Motion for Interim and Final Orders Pursuant to Section 366 of the Bankruptcy Code (I) Prohibiting Utility companies from Altering, Refusing, or Discontinuing Utility Services, (II) Deeming Utility Companies Adequately Assured of Future Performance, and (III) Establishing Procedures for Determining Adequate Assurance of Payment filed on January 22, 2008 (“Utility Motion”).

- 32 Interim Order Pursuant to Section 366 of the Bankruptcy Code (I) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Utility Services, (II) Deeming Utility Companies Adequately Assured of Future Performance, and (III) Establishing Procedures for Determining Adequate Assurance of Payment filed on January 23, 2008.
- 189 Objection Of Pepco Holdings, Inc., Florida Power & Light Company, Sacramento Municipal Utility District And Gexa Energy To Debtors' Motion For Interim And Final Orders Under Section 366 Of The Bankruptcy Code filed on February 6, 2008.
- 201 Transcript of hearing held on January 23, 2008.
- 375 Transcript of hearing held on February 13, 2008 and entered on the docket on February 26, 2008.
- 414 Final Order (I) Prohibiting Utility companies From Altering, Refusing, or Discontinuing Utility Services, (II) Deeming Utilities Companies Adequately Assured of Future Performance, and (III) Establishing Procedures for Determining Adequate Assurance of Payment. Order Signed on 2/27/2008 and filed on 02/28/2008.
- 467 Notice of Appeal filed on March 10, 2008.

Docket Entries through March 10, 2008 for Bankruptcy Case 08-10141

B. Statement Of The Issues To Be Presented:

1. Did the Bankruptcy Court err when holding that the Utility Deposit Account (as defined in the Utility Motion, Interim Order and Final Order) was an acceptable form of an assurance of payment under 11 U.S.C. § 366(c) despite the fact that such form was not satisfactory to the Objecting Utilities.
2. Did the Bankruptcy Court err when holding that the Utility Deposit Account (as defined in the Utility Motion, Interim Order and Final Order) met the definition of an assurance set forth in 11 U.S.C. § 366(c)(1)(A).

3. Did the Bankruptcy Court's Interim and Final Orders violate the requirement of 11 U.S.C. 366(c)(2) that each Objecting Utility actually receive an assurance of payment within the first 30 days of the case.
4. Did the Bankruptcy Court's Interim and Final Orders granting Debtors' Utility Motion and approving the Debtor's Procedures reverse the burden imposed by the statute and effectively terminate each Objecting Utility's rights under 11 U.S.C. 366(c)(2).
5. Did the Bankruptcy Court err in granting the Debtors' Utility Motion on an ex parte basis.
6. Did the Bankruptcy Court's Interim and Final Orders granting Debtors' Utility Motion and approving the Debtor's Procedures violate the requirements of Bankruptcy Rule 9014 and 7004.
7. Did the Bankruptcy Court's Interim and Final Orders approving Debtors' request for injunctive relief violate the requirements of Bankruptcy Rule 7001 and other applicable requirements for the imposition of injunctive relief.
8. Did the Bankruptcy Court's Interim and Final Orders permit Debtors to ignore requirements imposed upon a debtor in possession under applicable state law and 28 U.S.C 959(b).

Dated: 03/20/2008

Respectfully submitted,

Michael P. Morton
Michael Morton, P.A. #2492
1203 North Orange Street
Wilmington, DE 19801
302-426-1313

And

McCarthy & White, PLLC

/s/William Douglas White
William Douglas White
McCarthy & White, PLLC
8180 Greensboro Drive, Suite 875
McLean VA 22102
703-770-9265 (phone)
703-770-9266 (fax)
wdw@mccarthywhite.com

Attorneys for Objecting Utilities and Appellants

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of March, 2008 I caused to be sent via the Court's ECF filing system a copy of the foregoing to the following:

United States Trustee
844 King Street, Room 2207
Lockbox #35
Wilmington, DE 19899-0035

Pauline K. Morgan
Young, Conaway, Stargatt & Taylor
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, DE 19801

Eric T. Ray
Balch & Bingham LLP
1901 Sixth Avenue North
Suite 2600
Birmingham, AL 35203

/s/William Douglas White
William Douglas White
McCarthy & White, PLLC
8180 Greensboro Drive, Suite 875
McLean VA 22102